

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
FETCO HOME DECOR, INC.)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
HARBORTOWN INDUSTRIES, INC.)	
)	
Defendants.)	
_____)	

COMPLAINT AND JURY DEMAND

Plaintiff Fetco Home Decor, Inc. by its undersigned attorneys, by way of
Complaint herein, alleges as follows:

THE PARTIES

1. Plaintiff Fetco Home Decor, Inc. ("Fetco") is a Massachusetts corporation having a place of business at 84 Teed Drive, Randolph, Massachusetts, 02368.

2. On information and belief, Defendant Harbortown Industries, Inc. ("Harbortown") is an Illinois corporation having a place of business at 28477 North Ballard Drive, Lake Forest, Illinois, 60045.

JURISDICTION AND VENUE

3. This court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1338(a).

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b).

COPYRIGHT INFRINGEMENT

5. In 2007, Fetco designed and created a series of picture frames incorporating original three-dimensional artworks depicting inspirational words and phrases along with other decorative elements including flowers, plants, crosses, butterflies, and various abstract designs. Fetco began selling the picture frames in 2008.

6. Fetco's original three-dimensional artworks constitute copyrightable subject matter under the laws of the United States.

7. Fetco has complied in all respects with the copyright laws of the United States and all other laws governing federal copyrights. It has filed a proper application for registration of the copyright in each of the above-identified works.

8. Fetco holds the exclusive right to reproduce and authorize reproduction of the above-listed copyrighted works, to prepare derivative works based thereon, and to distribute copies thereof, as well as all rights to recover for past and future infringement of said works.

9. On information and belief, Harbortown has manufactured, distributed, imported, and/or sold picture frames incorporating three-dimensional artworks that are copied from and are substantially similar and/or identical to the copyrighted works of Fetco.

10. Each of Exhibits 1–4 shows, for the following works by Fetco, (a) Fetco's copyrighted design, and (b) the corresponding infringing work marketed by Harbortown:

<u>Title of Work</u>	<u>Exhibit</u>
D1054 (INSPIRE)	1
D1069 (FAMILY)	2
D1072 (FAITH)	3
D1120 (HOME SWEET HOME)	4

11. Harbortown's actions have harmed and continue to harm Fetco and constitute a violation of Fetco's exclusive rights under 17 U.S.C. § 106, including the rights to reproduce, prepare derivative works from, and distribute the copyrighted works.

WHEREFORE, Plaintiff Fetco Home Decor, Inc., demands judgment as follows against Defendant Harbortown Industries, Inc.:

A. That this Court, in accordance with 17 U.S.C. § 502, preliminarily and permanently enjoin Harbortown, its officers, representatives, agents, servants and all those in concert or active participation with them, from further copying, reproducing, importing, distributing, and/or selling copies (including but not limited to the works depicted in Exhibits 1–4) of each and all of the copyrighted works.

B. That Harbortown be directed to file with this Court and to serve upon Fetco, within thirty (30) days of service of the permanent injunction requested herein, a report in writing under oath, setting forth in detail the manner and form in which Harbortown has complied therewith.

C. That Fetco be awarded judgment against Harbortown for Fetco's damages and Harbortown's profits resulting from the infringement of Fetco's copyrights in accordance with the provisions of 17 U.S.C. § 504.

D. That in the alternative, should Fetco so elect, Fetco be awarded statutory damages under 17 U.S.C. § 504(c)(1).

E. That Harbortown pay to Fetco such damages as Fetco has incurred and such profits as Harbortown has received by reason of the acts of copyright infringement complained of herein.

F. That this Court immediately order under 17 U.S.C. § 503(a) the impounding of all infringing products currently in Harbortown's possession or under their control, as well as all equipment and instruments by means of which copies of the infringing products are made.

G. That Harbortown be required under 17 U.S.C. § 503(b) to deliver up for destruction all infringing products in their possession or under their control.

H. That Fetco recover its costs in this civil action, as well as its reasonable attorney fees and other expenses.

I. That this Court grant such other order and further relief as it deems just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b), Fed. R. Civ. P., Fetco hereby demands trial by jury of all issues so triable.

FETCO HOME DECOR, INC.

Date: March 26, 2010

A handwritten signature in black ink, appearing to read "John L. Welch", written over a horizontal line.

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